



CM/ECF Newsletter

2003 Issue I

U.S. Bankruptcy Court—Eastern
District of Virginia
vaeb.uscourts.gov/ecfnew/ecf.htm

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Fourth Circuit and National Implementation of Bankruptcy CM/ECF *A Message from the Clerk*



Implementation of Bankruptcy CM/ECF.

All new bankruptcy petitions and adversary proceedings filed in the Eastern District of Virginia on or after January 1, 2002, are being administered in the CM/ECF system. In August 2002, the docket data for bankruptcy cases and adversary proceedings being administered in the National Integrated Bankruptcy System (NIBS) successfully migrated from NIBS to CM/ECF. As of February 28, 2003, 345,000 cases and 5,514,000 docket entries are being administered in the court's CM/ECF system.

With the Virginia Western Bankruptcy Court having recently begun the Bankruptcy CM/ECF implementation process, all nine bankruptcy courts in the Fourth Circuit either are live operationally in CM/ECF or are in various stages of implementing CM/ECF. To date, in addition to Virginia Eastern, North Carolina Western and South Carolina are live operationally, on Bankruptcy CM/ECF.

Nationally, 45 of the 90 bankruptcy courts are live operationally on CM/ECF. An additional 31 bankruptcy courts are between various phases of the implementation process. By summer 2004, the remaining 18 bankruptcy courts will be designated by the Administrative Office of the U.S. Courts (AO) to commence the implementation process.

Bankruptcy CM/ECF Version 2 Update.

The AO has released Version 2 of Bankruptcy CM/ECF to the CM/ECF courts for review, assessment and upgrade implementation. There are significant differences between Bankruptcy CM/ECF Version 1 and Version 2, which will require the clerk's office to assess and map out the migration of Version 1 data into Version 2. It is expected that this migration effort will be completed by mid-2003. The bar and public will be advised in advance of the court's CM/ECF data migration schedule. As needed, internal and external users' on-line manual materials will be updated.

Version 2 will introduce new internal and external functionality not currently available in Version 1. Some of these functions may be activated after Version 2 becomes operational. New anticipated functions will include, among other enhancements, the following: (1) Internet Credit Card Payment module, which will permit external users to process credit card payments directly and securely on-line; (2) automatic assignment of judge, trustee and sec. 341 meeting date and time; (3) automatic discharge and case closing; (4) Federal Records Center/Records Management System, which will allow public users to request case file records from the FRC and from within the court; (5) additional reporting capabilities including quality assurance/control reports; (6) display confirmation hearing date on case summary query; (7) noticing forms generation module; (8) e-mail recipients can view claim attachments; (9) Automated Docketing Interface (ADI) capability, which will permit the Court's IT Division to develop local applications for the benefit of internal and external users; (10) data validation checks and (11) Bankruptcy Noticing Center notice of entry of order.

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The AO has agreed to our court's request to complete a Version 1 compatible software modification, which provides for the expansion of the ECF daily summary e-mail notices to include the entire docket text. The necessary software has been incorporated into the court's CM/ECF live database. This new function has been well received by the bar.

Bankruptcy CM/ECF Release 3.

Release 3 will follow the release of Version 2 in early 2004 (All upgrades to Bankruptcy CM/ECF following Version 2 will be designated as a "Release.") A new list of Release 3 functions is under development by the AO and the CM/ECF courts. More information about Release 3 will follow at a later date. A precursor to Release 3 will address the mandatory privacy policy of the Judicial Conference of the United States, based on proposed national bankruptcy rule and pending form changes, which are due to take effect on December 1, 2003, absent congressional action to the contrary. While national form changes do not require congressional approval, the -referenced form changes are keyed to privacy-related national rule changes that are subject to congressional review.

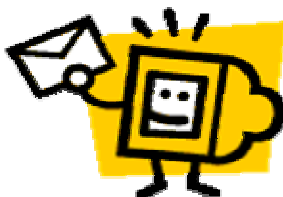
CM/ECF System Electronic Signature Issues



Members of the Bar have raised two issues concerning the proper use and effect of CM/ECF system electronic signatures on documents submitted to the court by electronic means via the Internet. First, must an attorney who filed the initial document or pleading in the case or proceeding be required to file each and every subsequent document or pleading in that case or proceeding? Second, does it constitute the unauthorized practice of law for a person other than the CM/ECF registered participant to use that person's login and password to file a document or pleading in a case or proceeding? As used in the proper context within this article, the phrase "document or pleading" includes petitions, motions, memoranda of law, or other pleadings, documents and papers.

A document or pleading may be signed electronically and filed via the Internet into the CM/ECF system on behalf of a client by an attorney in the same firm or office as the attorney who filed the petition (or the initial pleading commencing an adversary proceeding or contested matter). By undertaking this action, the filing attorney is entering an appearance on behalf of the client. This action can be likened to the same attorney manually signing a document or pleading in a paper case. A client may be represented by more than one attorney. It would not be proper, however, for attorney B (whether in the same firm or office or in another firm or office) to allow the use of his or her login and password to file a document or pleading for attorney A, if attorney B's typographic signature does not appear on the document or pleading and attorney B does not intend to enter an appearance in the case or proceeding.

An attorney properly may allow an employee under his or her control to use the attorney's password to file a document or pleading that is prepared under the attorney's supervision. The document or pleading must contain the attorney's typographic signature (*i.e.*, "/s/George Wythe"). In this limited context, such use of the attorney-employer's login and password would not constitute participation in the unauthorized practice of law, any more than if the employee hand-carried a document or pleading signed manually by the attorney to the clerk's office and presented the pleading for filing. There would be an issue, however, if the attorney allowed an employee to use the attorney's login and password to file a document or pleading that the attorney had not actually supervised and reviewed.



Responding to ECF E-Mail Notifications

Some ECF users have been responding to “e-mail notifications” from ECF concerning the referenced docket entries. The ECF server receives hundreds of systems generated e-mails. These responses are returned to the ECF Help Desk, which is not designed to respond to case specific or procedural questions. These types of questions or problems are best handled by the Case Administrator for the case.

Please direct responses/concerns/questions you may have regarding an e-mail notification to the Case Administrator in the appropriate divisional office. This will ensure that your concern is addressed.

You can secure the appropriate Case Administrator’s clerk’s office telephone number by accessing the court’s Internet Home Page at <http://www.vaeb.uscourts.gov> and then clicking the “Phone Us” button at the bottom of the page. At that page, click on the proper division hyperlink and find the appropriate telephone number. Cases are assigned to our Case Administrators by double terminal digit case number ranges (e.g., 00-09). Remember that a new case numbering convention began for cases filed on or after January 1, 2003.

Who Receives E-Mail Notices in a Case?

How do I know who receives electronic notification and who doesn’t in a particular case? This question has been posed to the court on numerous occasions when an attorney has a pleading to file and doesn’t know who receives electronic notification and who will need to be served conventionally. This information can be easily obtained by following the steps noted below:

Login to ECF Live System

- Click Utilities
 - Click Mailings
 - Click Mailing Info for a Case
 - Enter Case #
 - Click on Submit

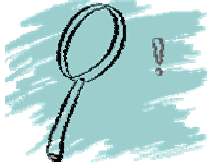
The screen will display:

1. Electronic Mail Notice List.
Includes name of Attorney and e-mail address.
2. Manual Notice List.
Includes name and address of attorneys who do not receive electronic notification.

Note: There is **no** PACER charge for accessing this information.



U.S. Party/Case Index



The clerk's office has received several inquiries from the bar concerning how searches could be made of other courts' records remotely. To accommodate this need, the Administrative Office of the U.S. Courts has created the U.S. Party/Case Index. It is a national index for U.S. appellate, bankruptcy and district courts. Registered users can conduct a search nationwide by name or social security number in the

bankruptcy index, name or "nature of suit" in the civil index, defendant name in the criminal index and party name in the appellate index. Each "hit" produced from a successful search will provide the party name, the court where the case is filed, the case number and the filing date. In addition, for bankruptcy searches, the chapter will be provided. Further information regarding a case can be secured by accessing the particular court's PACER machine where the case is located. If a user has pre-registered with each court, the login and password issued for the U.S. Party/Case Index should work in each court's PACER machine. The "Case Number" will be a link to the case summary information at the court when accessing the web version of the U.S. Party/Case Index and if the data is available at an Internet PACER court. To gain such access, one need only click the "case number."

Access to the U.S. Party/Case Index requires a valid login and password issued by the PACER Service Center. Contact the PACER Service center at 800-676-6856 to receive a login and password or to activate an existing login and password on the U.S. Party/Case Index. Additional information, including registration form material, can be secured by accessing the PACER Service Center's U.S. Party/Case Index Home Page at <http://pacer.uspci.uscourts.gov>. An Internet access fee of \$.07 per page, as approved by the Judicial Conference of the United States, at its September 1998 session, will be assessed for this service. Traditional dial-up access service is available as well at an access fee rate of \$.60 per minute. Not all federal courts participate in the U.S. Party Case index. A listing of non-participating courts can be accessed through the PACER Service Center's web site. Information from non-participating courts can be accessed by searching those courts' PACER machines individually. The Fourth Circuit Court of Appeals and all of the district and bankruptcy courts within the Fourth Circuit participate in the U.S. Party/Case Index.

Did You Know....



That Virginia Eastern Bankruptcy Court's "Statistics" Internet Home Page was recently revamped and is updated on a monthly basis. Users can access this home page at <http://www.vaeb.uscourts.gov/stats/stats.htm>. In addition to viewing monthly filings, users can view annual, quarterly and historical filings. Feedback about the website can be provided by simply clicking on the "Feedback on website by E-mail" link, which is located at the bottom of the main page. All comments are welcome!

Creating/Adding New Parties to a Case



When filing a pleading on behalf of multiple entities who are new parties in a case, each new party must be added individually as a separate entity.

Adding a group of new parties in a listing of names will not result in the identification of each newly added party for noticing purposes.

CM/ECF: The Attorney's Perspective



“CM/ECF: The Attorneys’ Perspective” is a 20-minute video produced by the Administrative Office of the U.S. Courts as a tool for courts to use in educating the bar and other non-court users. It is now available in streaming video format on the judiciary’s Internet Home Page at: www.uscourts.gov. There are links from two locations—the “Newsroom” <http://www.uscourts.gov/news.html> and the “CM/ECF” Home Page <http://www.uscourts.gov/cmecf/cmecf.html>.

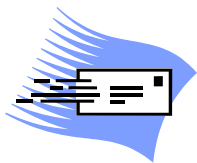
The video, which was designed as an introduction to CM/ECF for non-court users, contains footage of attorneys who practice in various courts around the country (including the Eastern District of Virginia) describing their experiences with electronic filing. It provides an opportunity for attorneys to hear from their peers about the benefits and impacts of CM/ECF. The videotape is “close-captioned.”

13th Annual Bankruptcy Law Seminar Presentation on ECF Helpful Hints and Available Resources



Our own division managers, Chuck Miller, Peggy Grivetti and Steve Kopacki, prepared and delivered a paper offering ECF helpful hints and ECF resource information at the 13th Annual Bankruptcy Law Seminar, presented by the Virginia CLE, in cooperation with the Bankruptcy Law Section of the Virginia State Bar. The paper offers a wide range of helpful hints and lists numerous ECF-related resources that are available to the bar. The paper can be accessed at the court’s CM/ECF Home Page by clicking the “Users’ Guide” button located at the bottom of the page and then clicking the “ECF Helpful Hints and Resources” hyperlink.

Maintenance of your ECF Account



Registered users are advised to remove old user e-mail addresses from their ECF accounts whenever there are changes in firm attorneys or office staff. Registered users are required to maintain current and active e-mail addresses for the purpose of receiving e-mail notifications. To update addresses, please review the “Utilities” section of the online Users’ Guide, which is located on the CM/ECF Home Page at <http://www.vaeb.uscourts.gov/ecfnew/ecf.htm>.

CM/ECF Practice Advisories



From time to time, we will issue CM/ECF Practice Advisories to provide helpful information and updates for the benefit of the court’s CM/ECF external users. These advisories are posted on our VAEB and CM/ECF home pages. Prior advisories can be accessed by clicking “ECF Announcements” on the CM/ECF Home Page. The most recent advisory is No. 02-6, dated December 23, 2002.

Revised Procedural Form203 Disclosure of Compensation by Attorney for Debtor



To enable attorneys for chapter 13 debtors to comply with notice and proof of service provisions as set forth in revised Local Bankruptcy Rule 2016-1(C)(5)(a)&(b), Form203 Disclosure of Compensation of Attorney for Debtor has been revised for use in the Eastern District of Virginia. This form is available on the court's web site and is also being made available to the various bankruptcy petition software providers for inclusion in their programs.

Use of this form version will eliminate the need for additional form notices or docket events. As a result, the docket event **Notice Pursuant to LBR 2016-1(C)(5)(a)** will be retired.

Virginia Western Bankruptcy Court Prepares for CM/ECF



Nationwide implementation of the Case Management/Electronic Case Files (CM/ECF) System is in full swing. In an effort to ease the transition, the Administrative Office of the U.S. Courts appoints an implementation team to each court. A mentor court, which has implemented CM/ECF, is assigned to each team.

We are pleased to announce that the Eastern District of Virginia Bankruptcy Court has been appointed the mentoring court for the Western District of Virginia Bankruptcy Court. The role the court mentor plays is one of sharing of knowledge and information so the new court can make a smooth transition from its legacy case management system to CM/ECF. The Eastern District has provided the Western District with samples of forms, procedures and operational methods and hosted a visit from the Western District's CM/ECF project staff.

The Administrative Office has created a Bankruptcy Court CM/ECF Readiness Kit that contains guidance, checklists, activities, suggested actions, and a collection of examples of documents. This kit is used by the implementing court as a reference guide. The Readiness Kit consists of two phases, Preliminary and Implementation. During the preliminary phase, the court prepares its staff, systems and operations. The second or implementation phase includes a site visit by the implementation team to assist the court in achieving the variety of tasks and answering implementation questions. Once the court completes the readiness process, the court will begin day-to-day CM/ECF operations.

We wish the Virginia Western Bankruptcy Court great success in implementing CM/ECF!



CM/ECF Event Code Addition

Under Bankruptcy Motions/Applications link, a new code has been created "**Motion to Vacate Order Dismissing Case**".